REMARKS/ARGUMENTS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-5, 7-9, 11-30, 32-52 are pending in the application, with Claims 1, 7-18, 22, 26, 29-30, 32-34 and 36-37 amended and Claims 6 and 31 cancelled.

In the outstanding Office Action, Claims 1-9, 11-24, 26-28, 36 and 37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Anthony et al. (U.S. Patent 6,559,769, hereinafter Anthony) in view of Beken (U.S. Patent 6,552,652) and Vaddiparty et al. (U.S. Patent Publication No. 2004/0147220, hereinafter Vaddiparty); and Claims 10, 25 and 33-35 were indicated as containing allowable subject matter.

Applicants acknowledge with appreciation the indication of allowable subject matter.

Applicants acknowledge with appreciation the interview between the Examiner, the inventor and Applicants' representative on July 27, 2005. During the interview, Applicants' representatives discussed the commercial success of the claimed invention, thereby presenting evidence indicative of non-obviousness. Agreement was reached that amending Claim 1 to recite the features of Claims 6 and 10 would distinguish over the applied references, and that amending Claim 22 to include the features of Claim 25 also would distinguish over the applied references. Agreement was reached that amending Claims 29 and 30 to depend from amended Claim 1 would not raise an issue with respect to the previous election without traverse.

Claims 1, 22 and 37 are amended to recite varying the integral schedule based on a randomization term. Support for these amendments is found in Applicants' originally filed Claim 10 and Figure 2 of U.S. Patent 4,977,577, incorporated by reference on page 11, lines 3-6 of the present application. Figure 2 of the '577 patent shows a random number generator

triggering the transmit interval and wake up timer. The '577 patent, on column 7, line 6 reads:

> "The time duration between transmission intervals is made to vary in response to the random number generator 17 generating a random number and transferring the random number to the timing circuit 13. The random number modifies the timing duration between each transmitting interval randomly."

No new matter is added. If the Examiner determines that the cited passage from the '577 patent constitutes essential matter, Applicants will gladly authorize entry of this material via Examiner's Amendment. Thus, independent Claims 1, 22 and 37 recite that the interval schedule is adjusted with a randomization term to vary the interval schedule. That is, the varying recited in amended independent Claims 1, 22 and 37 is not limited to pseudo-random varying. As acknowledged in the Official Action,[1] the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, pseudo-randomly varying the integral schedule based on a randomization term. Indeed, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, any type of random variation of the integral schedule based on a randomization term, let alone pseudo-random variation. As none of the cited prior art, individually or in combination, disclose or suggest all the elements of independent Claims 1, 22 and 37, Applicants submit the inventions defined by Claims 1, 22 and 37, and all claims depending therefrom, are not rendered obvious by the asserted references for at least the reasons stated above.[2]

Regarding support for amended Claims 1, 22 and 37, Applicants submit that the present application is directed to an invention in the predictable arts, thus support for a claim

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[1] Official Action, paragraph 6.
[2] MPEP § 2142 "...the prior art reference (or references when combined) must teach or suggest **all** the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

to a genus (randomly varying) is found in the original claim to a species (pseudo-randomly varying). Indeed, MPEP § 2163 recites

> "The written description requirement for a claimed genus may be satisfied through sufficient description of a representative number of species by actual reduction to practice (see i)(A), above), reduction to drawings (see i)(B), above), or by disclosure of relevant, identifying characteristics, i.e., structure or other physical and/or chemical properties, by functional characteristics coupled with a known or disclosed correlation between function and structure, or by a combination of such identifying characteristics, sufficient to show the applicant was in possession of the claimed genus (see i)(C), above). See *Eli Lilly*, 119 F.3d at 1568, 43 USPQ2d at 1406.

Thus, Applicants submit that Applicants' claim to the *genus* of "randomly varying" is supported by Applicants' original claim to the *species* of "pseudo-randomly varying" and by the disclosure of the '577 patent which was incorporated into the present application by reference.

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully requests an early and favorable action to that effect.

Respectfully submitted,

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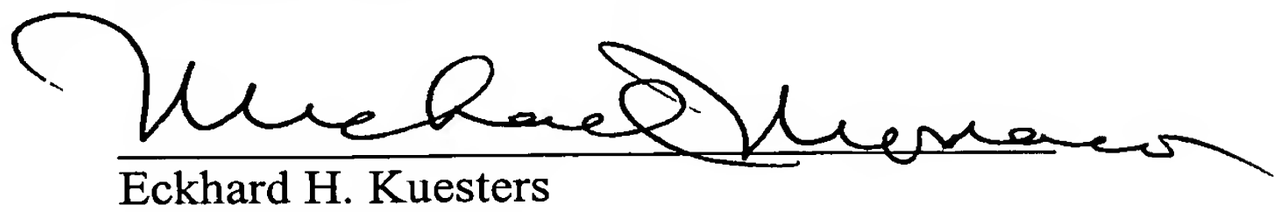

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